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OFFICE OF PETITIONS PATENT  
Customer No. 22,852  
Attorney Docket No.: 6530.0290



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of: )  
Thomas O. BALES et al. )  
Serial No.: 10/074,012 ) Group Art Unit: 3736  
Filed: February 14, 2002 ) Examiner: Unassigned  
For: RADIAL JAW BIOPSY )  
FORCEPS )

Commissioner of Patents, USPTO  
Attn: Office of Petitions  
Crystal Plaza Four, Suite CP4-3C23  
2201 South Clark Place  
Arlington, VA 22202

Sir:

**DECLARATION OF LESLIE BOOKOFF IN SUPPORT  
OF RENEWED PETITION UNDER 37 C.F.R. § 1.47(a)**

I, Leslie Bookoff, hereby declare as follows:

1. I am a registered patent attorney (PTO Reg. No. 38,084) at the law firm of Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, of 1300 I Street, NW, Washington, DC 20005. I have first hand knowledge of the facts recited in this Declaration.
2. I understand that Charles R. Slater ("Slater"), Kevin W. Smith ("Smith"), and Thomas O. Bales ("Bales") are joint inventors in the above-captioned reissue patent application.

FINNEGAN  
HENDERSON  
FARABOW  
GARRETT &  
DUNNER LLP

1300 I Street, NW  
Washington, DC 20005  
202.408.4000  
Fax 202.408.4400  
www.finnegan.com

3. I have read the Decision on the Petition mailed on May 20, 2003, dismissing the Petition filed on July 3, 2003. I understand from that Decision, at page 3, that a renewed petition must show that: (1) a *bona fide* attempt has been made to present to each of Slater and Smith the original U.S. Patent 6,024,708 ("708 Patent") and any further amendments since February 14, 2002, and (2) Slater and Smith refuse to join in this reissue application. As detailed below, each of Slater and Smith have been presented with the required documentation and have refused to join this application.

4. On June 11, 2003, I prepared and signed a letter to each of Slater and Smith enclosing a copy of the reissue application (i.e., containing a complete copy of '708 Patent and the Preliminary Amendment filed with the reissue application on February 14, 2002), a copy of the Reissue Declaration filed with the reissue application, and a copy of U.S. Patent No. 6,264,617 that is referenced in the Reissue Declaration. A copy of each of these letters, without the enclosure, is attached as Exhibit A. These letters were sent via Federal Express to the last known work address of Slater and Smith (i.e., Syntheon, Inc., 8210 N.W. 27<sup>th</sup> Street, Miami, Florida 33122). The Federal Express tracking reports for these packages (attached as Exhibit B) indicate that the package to Slater and the package to Smith were each delivered at the work address at 10:30 a.m. on June 13, 2003.

5. The June 11, 2003 letters provided each of Slater and Smith a request to sign the Reissue Declaration and join the reissue application. The letters further requested return of the signed Reissue Declaration by June 23, 2003 and provided

a self-addressed Federal Express envelope for return of the signed Reissue Declaration. The letters further invited Slater and Smith to contact me or Kevin Mun, a registered patent agent (PTO Reg. No. 50,585) at Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, should they have any questions.

6. On June 17, 2003, I attempted to call Slater and Smith to follow up on the status of the package. I first called Slater at his work telephone number (305-716-7000). Since he did not answer the call, I left a message at his personal voicemail reiterating the request to sign the Declaration and invited him to call me with any questions that he might have. To date, the call has not been returned.

7. Also on June 17, 2003, I called Smith at his work telephone number (305-716-7000) and had a conversation with him. During the telephone conversation, Smith made clear that he was refusing to sign the Reissue Declaration and join this reissue application.

8. On June 25, 2003, I prepared and signed another letter to Slater to follow up on the message that I left on his voicemail on June 17, 2003. That letter, attached as Exhibit C, provided Slater with a final request to sign the Reissue Declaration and join this reissue application. That letter requested return of the signed Reissue Declaration by July 7, 2003 and stated that non-receipt of the signed Reissue Declaration by that date would be understood to be a refusal by Slater to join this reissue application. That June 25, 2003 letter was sent via Federal Express to Slater's work address. The Federal Express tracking report for this letter (attached as Exhibit D) indicates that the letter was delivered at the work address at 10:29 a.m. on June 26, 2003.

9. Also on June 25, 2003, I prepared and signed a letter to Smith, a copy of which is attached as Exhibit E, to confirm the June 17, 2003 telephone conversation I had with him. That letter stated my understanding that Smith was refusing to sign the Reissue Declaration and join this reissue application. The letter further requested that he let me know if my understanding was incorrect. That June 25, 2003 letter was sent via Federal Express to Smith's work address. The Federal Express tracking report for this letter (attached as Exhibit F) indicates that the letter was delivered at the work address at 10:29 a.m. on June 26, 2003.

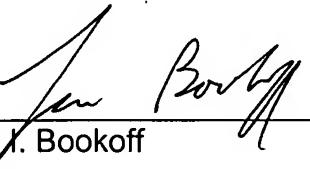
10. To date, Slater has not replied to the June 11, 2003 and June 25, 2003 letters or the June 17, 2003 voicemail message. Also to date, Slater has not provided a signed Reissue Declaration. In addition, with the exception of his clear refusal to sign the Reissue Declaration and join this application made orally to me on June 17, 2003, Smith to date has not otherwise replied to the June 11, 2003 and June 25, 2003 letters or provided a signed Reissue Declaration. Each of Slater and Smith therefore have made clear a refusal to sign the Reissue Declaration and join in this reissue application.

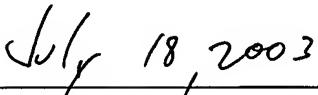
11. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code

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and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

  
Leslie I. Bookoff

  
Date

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LESLIE I. BOOKOFF

(202) 408-4140

[les.bookoff@finnegan.com](mailto:les.bookoff@finnegan.com)

June 11, 2003

Mr. Kevin W. Smith  
Syntheon, Inc.  
8210 N.W. 27<sup>th</sup> Street  
Miami, FL 33122

**VIA FEDERAL EXPRESS**

Re: U.S. Reissue Patent Application No. 10/074,012  
Based on U.S. Patent No. 6,024,708 Entitled  
"RADIAL JAW BIOPSY FORCEPS"  
Our Reference: 06530.0290-00000

Dear Mr. Smith:

We are working with Boston Scientific Corp. and its subsidiary Symbiosis (collectively "BSC") on the above-referenced reissue application, on which you are a named inventor along with Charles Slater and Thomas Bales. With this letter, we enclose a copy of the application including a complete copy of original U.S. Patent No. 6,024,708, upon which the reissue application is based, and a Preliminary Amendment filed with the application on February 14, 2003. We also enclose a copy of the Reissue Declaration that also was filed with the application. That Declaration already has been executed by Mr. Bales. In addition, we enclose a copy of U.S. Patent No. 6,264,617, which is referenced in the Declaration.

We understand that BSC previously forwarded to you documents relating to this reissue application and contacted you regarding execution of the Declaration. BSC once again requests that you sign the Declaration and thereby join this application.

Please review the enclosed application, sign the enclosed Declaration, and send them back to us as soon as possible. We would appreciate receipt of the executed Declaration by June 23, 2003. We enclose a self-addressed Federal Express envelope for return of the signed Declaration.

Mr. Kevin W. Smith  
June 11, 2003  
Page 2

FINNEGAN  
HENDERSON  
FARABOW  
GARRETT &  
DUNNER LLP

Please contact me or Kevin Mun (202-408-4222) if you have any questions.

With best regards,

Sincerely,

  
Leslie I. Bookoff

LIB/KKM/dd  
Enclosures



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June 11, 2003

Mr. Charles R. Slater  
Syntheon, Inc.  
8210 N.W. 27<sup>th</sup> Street  
Miami, FL 33122

**VIA FEDERAL EXPRESS**

Re: U.S. Reissue Patent Application No. 10/074,012  
Based on U.S. Patent No. 6,024,708 Entitled  
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DUNNER LLP

Mr. Charles R. Slater  
June 11, 2003  
Page 2

Please contact me or Kevin Mun (202-408-4222) if you have any questions.

With best regards,

Sincerely,



Leslie I. Bookoff

LIB/KKM/dd  
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Reference number 06530.0290-00000  
 Delivered to Receipt/Fmt desk  
 Delivery location MIAMI FL  
 Service type Priority Pak

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Date/time	Status	Location	Comments
Jun 13, 2003	Delivered	MIAMI FL	
	8:28 am	MIAMI FL	
	7:01 am	MIAMI FL	
	6:56 am	MIAMI FL	
	6:18 am	MIAMI FL	
	4:14 am	MEMPHIS TN	
	1:24 am	MEMPHIS TN	
	1:19 am	MEMPHIS TN	
	11:36 pm	DULLES VA	
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Jun 12, 2003	9:19 pm	WASHINGTON DC	
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 Delivery location MIAMI FL  
 Service type Priority Pak

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8:28 am	On FedEx vehicle for delivery	MIAMI FL	
7:02 am	Arrived at FedEx Destination Location	MIAMI FL	
6:56 am	Left FedEx Ramp	MIAMI FL	
6:18 am	Arrived at FedEx Ramp	MIAMI FL	
4:14 am	Left FedEx Sort Facility	MEMPHIS TN	
1:24 am	Arrived at Sort Facility	MEMPHIS TN	
1:18 am	Left FedEx Sort Facility	MEMPHIS TN	
Jun 12, 2003 11:36 pm	Left FedEx Ramp	DULLES VA	
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June 25, 2003

Mr. Charles R. Slater  
Syntheon, Inc.  
8210 N.W. 27<sup>th</sup> Street  
Miami, FL 33122

VIA FEDERAL EXPRESS

Re: U.S. Reissue Patent Application No. 10/074,012  
Based on U.S. Patent No. 6,024,708 Entitled  
"RADIAL JAW BIOPSY FORCEPS"  
Our Reference: 06530.0290-00000

Dear Mr. Slater:

This letter follows up on the message that I left on your voicemail on June 17, 2003. In that message, I reiterated BSC's request of you to execute the Declaration forwarded to you on June 11, 2003 and invited you to call me with any questions that you may have. Since the June 11, 2003 letter to you, we have not received the signed Declaration or any communication from you. Therefore, we are writing to you with BSC's final request for you to sign the Declaration and join the above-referenced reissue application.

Please forward the signed Declaration to us by July 7, 2003. Our non-receipt of the signed Declaration by July 7, 2003 will be understood by us to be a refusal to join this reissue application.

Please contact me if you have any questions.

With best regards,

Sincerely,

Leslie I. Bookoff

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Module H, 4th Floor  
Memphis, TN 38116

U.S. Mail: PO Box 727  
Memphis, TN 38194-4643  
Telephone: 901-369-3600

7/16/2003

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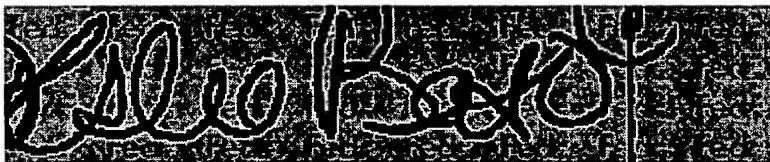
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**Signed For By:** L.BARRETO



**Delivery Location:** 8210 NW 27 ST

**Delivery Date:** June 26, 2003

**Delivery Time:** 1122

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**Shipping Information:**

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**Tracking No:** 613666213470

**Ship Date:** June 25, 2003

**Recipient:**

CHARLES SLATER  
SYNTHEON, INC.  
8210 N.W. 27TH STREET  
MIAMI, FL 33122  
US

**Shipper:**

FINNEGAN HENDERSON  
FINNEGAN HENDERSON  
1300 I ST NW # 600  
WASHINGTON, DC 200053314  
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Ship date	Jun 25, 2003	Service type	Priority Envelope
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June 25, 2003

Mr. Kevin W. Smith  
Syntheon, Inc.  
8210 N.W. 27<sup>th</sup> Street  
Miami, FL 33122

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Sincerely,

  
Leslie I Bookoff

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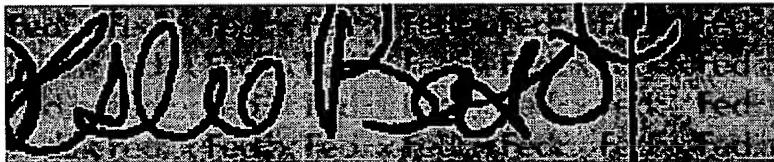
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Signed For By: L.BARRETO



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**Delivery Date:** June 26, 2003

**Delivery Time:** 1122

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**Shipping Information:**

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**Tracking No:** 613666213469

**Ship Date:** June 25, 2003

**Recipient:**

KEVIN SMITH  
SYNTHEON, INC.  
8210 N.W. 27TH STREET  
MIAMI, FL 33122  
US

**Shipper:**

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FINNEGAN HENDERSON  
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